

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

THERESA BROOKE,  
Plaintiff,

v.

INDEPENDENCE MENLO HOTEL  
OWNER LLC,  
Defendant.

Case No. 19-cv-06689-VKD

**ORDER TO SHOW CAUSE WHY THE  
COURT SHOULD NOT IMPOSE  
SANCTIONS FOR PLAINTIFF'S  
FAILURE TO COMPLY WITH COURT  
ORDERS**

Plaintiff Theresa Brooke filed this action on October 18, 2019. Dkt. No. 1. The Clerk of the Court issued summons on October 21, 2019. Dkt. No. 5. On November 7, 2019, the Court directed Ms. Brooke to consent to or decline magistrate judge jurisdiction within 14 days. Dkt. No. 6. Ms. Brooke did not file a consent or declination. The Clerk issued two additional notices on December 4, 2019 and January 2, 2020 directing Ms. Brooke to indicate whether she consented to or declined magistrate judge jurisdiction. Dkt. No. 10, 11. As of the date of this order, Ms. Brooke has not responded to any of these notices.

On November 11, 2019, Ms. Brooke filed a returned summons showing service of the complaint upon an Albert Damonte for C T Corporation System, Inc. on October 23, 2019 and requested entry of default against defendant Independence Menlo Hotel Owner LLC ("Independence Menlo"). Dkt. Nos. 7, 8. The Clerk declined to enter default, noting that the proof of service indicated that the party served was not the same as the party listed on the summons. Dkt. No. 9. Ms. Brooke filed nothing with the Court indicating that she had taken any action to address the problem the Clerk identified.

On January 3, 2020, the Court issued an order to show cause as to why this action should

1 not be dismissed for failure to prosecute. Dkt. No. 12. The Court ordered Ms. Brooke to submit a  
2 written response by January 16, 2020 and to appear and show cause on January 21, 2020. *Id.* The  
3 Court warned Ms. Brooke that failure to comply with the order may result in the dismissal of this  
4 action. *See* Fed. R. Civ. P. 41(b).

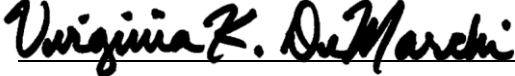
5 On January 15, 2020, Independence Menlo appeared and answered the complaint. Dkt No.  
6 16.

7 Ms. Brooke did not file a written response to the show cause order, did not appear as  
8 ordered on January 21, 2020, and has not otherwise communicated with the Court about this  
9 matter. Dkt. No. 17.

10 Having repeatedly ignored this Court's orders, plaintiff's counsel of record, P. Kristofer  
11 Strojnik is ORDERED TO SHOW CAUSE why the Court should not impose monetary or other  
12 sanctions against him and/or his client for failure to comply with the Clerk's notices requiring  
13 consent to or declination of magistrate jurisdiction, and failure to comply with the Court's order to  
14 file a show cause response and to appear at the January 21, 2020 hearing. A written response to  
15 this order must be filed by **January 24, 2020**. The Court will hold a hearing on this order to show  
16 cause on **January 28, 2020 at 10:00 a.m.** in Courtroom 2, Fifth Floor, 280 South First Street, San  
17 Jose, California 95113. Mr. Strojnik must attend this hearing in person.

18 **IT IS SO ORDERED.**

19 Dated: January 21, 2020

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22 VIRGINIA K. DEMARCHI  
23 United States Magistrate Judge  
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